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15 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

16 IN AND FOR THE COUNTY OF YAVAPAI

17 STATE OF ARIZONA,

18 Plaintiff,

19 vs.

20 STEVEN CARROLL DEMOCKER,

21 Defendant.

No. P1300CR20081339

Div. 6

**DEFENDANT'S MOTION IN  
LIMINE RE HUANTE AND  
BROWN RECONSTRUCTIONS**

(Oral Argument and Evidentiary  
Hearing Requested)

22 Defendant Steven DeMocker, by and through his counsel, hereby moves this  
23 Court for an Order *in limine* precluding the introduction of any and all evidence relating  
24 to attempts by Detectives Huante and Brown to re-create the bicycle ride that Defendant  
25 told them he took on July 2, 2008. This motion is supported by the following  
26 Memorandum of Points and Authorities.  
27  
28

1 ARGUMENT

2 Both Detective Brown and Detective Huante have attempted to demonstrate and  
3 re-create the bicycle ride that Mr. DeMocker took on the night in question. A video was  
4 made and disclosed of Detective Huante riding a bicycle on trails near Granite  
5 Mountain, and Detective Brown hiked on some of those same trails while mapping his  
6 course using a hand-held GPS device. Both of them wrote reports about their efforts.

7 It has long been the law in Arizona that such demonstrations or experiments must  
8 be performed under "substantially the same conditions" as existed during the original  
9 act. *State v. Polan*, 78 Ariz. 253, 278 P.2d 432 (1954). Here, Mr. DeMocker described  
10 to both Brown and Huante during a lengthy, un-counseled interview conducted in the  
11 early morning hours of July 3, 2008, in great detail exactly where he parked his car and  
12 where he rode his bicycle the evening before.<sup>1</sup> Unfortunately, neither detective was  
13 familiar with the area, and never bothered to carefully review his account before setting  
14 out to reconstruct his ride. To the extent the State now wants to offer any evidence of  
15 these two related events, presumably to contradict something about Mr. DeMocker's  
16 version, the fact that they were conducted under totally different circumstances as to  
17 location, duration, what route was traveled, and through the use of different equipment  
18 and even different means of travel (riding and walking) make their use inappropriate  
19 and impermissible. Allowing the State to introduce either or both of these  
20 demonstrations would only serve to confue and mislead the jury into thinking that they  
21 accurately portrayed the ride Mr. DeMocker actually took that evening.

22  
23  
24  
25 CONCLUSION

26  
27 <sup>1</sup> In fact, Mr. DeMocker even drew them a map of his actual route, which they photographed.

1 Defendant Steven DeMocker requests an Order *in limine* precluding the  
2 introduction of any and all evidence relating to attempts by Detectives Huante and  
3 Brown to re-create the bicycle ride that Defendant told them he took on July 2, 2008.

4 DATED this 22d day of December, 2009.

5  
6 By: 

John M. Sears  
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Prescott, Arizona 86302

7  
8  
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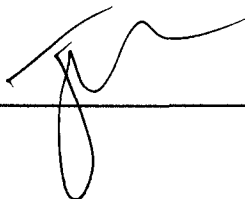
12  
13 **ORIGINAL** of the foregoing  
14 filed this 22d day  
of December, 2009, with:

15 Jeanne Hicks  
16 Clerk of the Court  
Yavapai County Superior Court  
120 S. Cortez  
Prescott, AZ 86303

17  
18 **COPIES** of the foregoing delivered  
this 22d day of December, 2009, to:

19 The Hon. Thomas B. Lindberg  
20 Judge of the Superior Court  
Division Six  
120 S. Cortez  
21 Prescott, AZ 86303

22 Joseph C. Butner, Esq.  
23 Yavapai County Attorney  
Prescott courthouse basket

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26   
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